Central Intelligence Agency

LEG/SUB

IMMIGRATION

Washington, D.C. 20505

18 JUN 1985

OLL 85-1581/1

The Honorable Anthony C. Beilenson
Chairman
Subcommittee on Legislation
Permanent Select Committee on Intelligence
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Thank you for your letter of 29 May 1985 inviting the Central Intelligence Agency to testify in a closed hearing before the Subcommittee on Legislation of the Permanent Select Committee on Intelligence in connection with proposals to change the applicability of the naturalization laws to certain United States intelligence sources.

On behalf of the Agency, I am very pleased to accept the Subcommittee's invitation and to offer as the witness on behalf of the Agency, the Deputy Director for Operations, Clair E. George. Mr. George will be supported at the hearing by appropriate Agency personnel.

We welcome the opportunity to appear before the Subcommittee to address the subject of expediting, in a secure fashion, the naturalization of those individuals who have made a substantial contribution to the national security. Legislation in this area would enhance our human collection capabilities as well as give recognition to those individuals who have already contributed to the national security. For this reason, such legislation has my full support as well as that of the Administration.

As your letter notes, legislation on the subject was included in the draft authorization bill submitted to the Congress on behalf of the Administration. Representative Stump has introduced a bill, H.R. 1082, Title VII of which also contains a provision on the subject. The Administration proposal is different in some respects from the Stump Bill. While we will be prepared at the hearing to discuss both in detail, I think it important to emphasize at the outset that

the Stump Bill and the Administration proposal proceed from the same basis; i.e., the need to naturalize in a secure and expeditious fashion individuals who have made extraordinary contributions to the national security. I believe that this is something on which we all can agree.

I want to thank the Subcommittee for scheduling hearings on the subject, thereby giving the Agency the opportunity to explain for the record the need for this legislation. I want to thank Representative Stump for his introduction of legislation on the subject and for his efforts in keeping the matter before the Committee. I also want to thank Representatives Ireland, Cheney and Livingston for their co-sponsorship of that legislation and for their other efforts on the matter.

I believe the record we make in these hearings will be of great assistance in securing ultimate passage of legislation, and I hope that, at their conclusion, we will have the complete support of the Subcommittee and, in turn, of the full Committee in that effort.

This letter also is being provided to Representative Hyde.

Sincerely,

/s/ William J. Casey

William J. Casey
Director of Central Intelligence

Distribution:
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LEG/OLL: (7 June 1985)

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Central Intelligence Agency

Washington, D.C. 20505

18 JUN 1985

OLL 85-1581/2

The Honorable Henry J. Hyde
Ranking Minority Member
Subcommittee on Legislation
Permanent Select Committee on Intelligence
House of Representatives
Washington, D.C. 20515

Dear Mr. Hyde:

I am writing in response to Representative Beilenson's letter of 29 May 1985 inviting the Central Intelligence Agency to testify in a closed hearing before the Subcommittee on Legislation of the Permanent Select Committee on Intelligence in connection with proposals to change the applicability of the naturalization laws to certain United States intelligence sources.

On behalf of the Agency, I am very pleased to accept the Subcommittee's invitation and to offer as the witness on behalf of the Agency, the Deputy Director for Operations, Clair E. George. Mr. George will be supported at the hearing by appropriate Agency personnel.

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As the chairman's letter notes, legislation on the subject was included in the draft authorization bill submitted to the Congress on behalf of the Administration. Representative Stump has introduced a bill, H.R. 1082, Title VII of which also contains a provision on the subject. The Administration proposal is different in some respects from the Stump Bill. While we will be prepared at the hearing to discuss both in

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I believe the record we make in these hearings will be of great assistance in securing ultimate passage of legislation, and I hope that, at their conclusion, we will have the complete support of the Subcommittee and, in turn, of the full Committee in that effort.

This letter also is being provided to Chairman Beilenson.

Sincerely,

/s/ William J. Casey

William J. Casey
Director of Central Intelligence

OLL 85-1535
30 May 1985

MEMORANDUM FOR: DCI
DDCI
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C/ [redacted] STAT
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FROM: [redacted] STAT
Chief, Legislation Division
Office of Legislative Liaison

SUBJECT: HPSCI Hearings on Defector Citizenship

1. The House Permanent Select Committee on Intelligence (HPSCI) has informally advised this office that HPSCI's Subcommittee on Legislation plans to hold hearings (closed) on defector citizenship. The hearing date is tentatively set for Tuesday, June 25, 1985. We expect that a letter of invitation from Representative Beilenson, Chairman of the Subcommittee, to the Director will be issued shortly.

2. Tentatively invited to testify, in addition to the Agency, are the Department of Justice and Representatives Romano Mazzoli and Daniel Lungren, Chairman and Ranking Minority Member, respectively, of the House Judiciary Committee's Subcommittee on Immigration. That Subcommittee has jurisdiction over changes in the law governing naturalization.

3. The purpose of the hearing will be threefold. First, it will give the Subcommittee Members (most of whom are new to HPSCI) a brief overview of defectors, their role in intelligence gathering, and why their contribution merits special consideration. Second, the hearing will serve to explain why these individuals merit in particular the expedited granting of citizenship. Third, the hearing obviously will build support for and defuse opposition to defector citizenship legislation. At this point the hearing will not focus on any specific legislative proposal (i.e. the Stump Bill, the Agency/ Administration proposal,or the version included by the Senate

Select Committee on Intelligence in its version of the Intelligence Authorization Bill for Fiscal Year 1986).

4. Scheduling of the hearing is a positive development which will allow the Agency to make its case in support of the legislation. The record the Agency is able to make will hopefully permit favorable action to be taken on the proposal by HPSCI: at the very least, an agreement not to oppose inclusion by the SSCI of the provision in the conference version of the Intelligence Authorization Bill. HPSCI support also will be of assistance in removing the present opposition to the proposal by the House Judiciary Committee.

5. HPSCI staff has informally suggested that the Agency's principal witness be the Deputy Director for Operations supported by the [redacted] and [redacted] While we believe that this is a good suggestion, we invite your comments on who should appear for the Agency at the June 25th hearing. In the interim, we are preparing a first draft of testimony and a series of likely questions and suggested answers. When the draft testimony and questions and answers are completed, we will circulate them for comment. Please feel free, however, at this stage to forward any comments or suggestions that you might have [redacted]

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Intell Auth
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U.S. HOUSE OF REPRESENTATIVES

PERMANENT SELECT COMMITTEE
ON INTELLIGENCE

WASHINGTON, DC 20515

OLL 85-1581

May 29, 1985

Honorable William J. Casey
Director of Central Intelligence
Washington, D.C. 20505

Dear Mr. Casey:

On June 25, 1985, the Subcommittee on Legislation of the House Permanent Select Committee on Intelligence will hold hearings on proposals to change the applicability of U.S. naturalization laws to U.S. intelligence sources. The Subcommittee invites you or your designee to appear at the hearing.

Although the Subcommittee would appreciate receiving your views on the specific provisions of Title VII of H.R. 1082 and the Administration's legislative proposal, the hearing will focus more broadly on the manner in which U.S. immigration and naturalization laws apply to U.S. intelligence sources.

The hearing will begin at 9:30 a.m. and will be conducted in closed session. I have asked Subcommittee Counsel Bernard Raimo and David S. Addington to contact your staff to work out the details.

Sincerely,

Anthony C. Beilenson
Chairman
Subcommittee on Legislation

TITLE VI - MODIFICATION OF CERTAIN NATURALIZATION REQUIREMENTS

Immigration and Nationality Act Amendment

SEC. 601. Section 316 of the Immigration and Nationality Act (8 U.S.C. 1427) is amended by adding at the end thereof the following new subsection:

"(g)(1) Whenever the Director of Central Intelligence, the Attorney General and the Commissioner of Immigration determine that a petitioner otherwise eligible for naturalization has made a significant contribution to the national security or to the national intelligence mission, the petitioner may be naturalized without regard to the residence and physical presence requirements of this section, or to the prohibitions of Section 313 of this Act, and no residence within the jurisdiction of the court shall be required.

(2) A petition under this provision may be filed, without regard to the residence of the petitioner, in any district court of the United States. The court shall conduct proceedings under this subsection in a manner consistent with the protection of intelligence sources, methods and activities."

TITLE VI - MODIFICATION OF CERTAIN NATURALIZATION REQUIREMENTS

Section 601 amends section 316 of the Immigration and Nationality Act (8 U.S.C. 1427) to improve the ability of the United States to obtain foreign intelligence from sources abroad by authorizing the waiver of three requirements for naturalization for certain persons who have made significant contributions to the national security or to the national intelligence mission. The requirements are general residency and physical presence, the requirements imposed on members of certain organizations, and the requirement that the naturalization petition be filed in the court which has jurisdiction over the petitioner's place of residence.

Congress has established a number of conditions on the granting of United States citizenship. These are set forth in Chapter 2 of Title III of the Immigration and Nationality Act, 8 U.S.C. 1421 et seq. The Congress has recognized, however, that when necessary to other governmental interests, certain of these requirements should be reduced or waived entirely. Unfortunately, there remain some requirements of the Immigration and Nationality Act which prevent complete recognition of significant contributions to the national security or to the national intelligence mission, and limit the ability of the United States to recruit potential foreign intelligence sources. The proposed amendment seeks to remedy this situation by addressing three requirements which currently stand in the way of expeditious naturalization of individuals making such contributions. Under the proposed amendment, waivers would be authorized in recognition of outstanding contributions to the United States and of the fact that the character and quality of service to the United States by certain individuals demonstrates that there is no need for them to serve a probationary period of residence to prove their fitness for citizenship.

The waivers authorized by proposed subsection (b) are limited in nature. They would become operative only after the requisite finding by the Director of Central Intelligence (DCI), the Attorney General (AG), and the Commissioner of the Immigration and Naturalization Service (INS). Waivers would be authorized only for three very specific requirements for naturalization. Individuals granted such waivers would have to comply with all other naturalization requirements.

Residence and Physical Presence

Section 316 of the Immigration and Nationality Act sets forth the residency and physical presence requirements which must be met by a petitioner. The establishment of these residency requirements reflects a determination by the Congress that such probationary periods are necessary in order for a petitioner to demonstrate his fitness for citizenship. Nevertheless, the Congress has also determined that for certain classes of petitioners these requirements are neither necessary nor appropriate. Thus, the Congress had determined that in certain cases the service which an individual has rendered to the United States demonstrates his fitness to become a citizen and merits expedited consideration. Among the classes of persons afforded such special treatment under the Immigration and Nationality Act in recognition of their service to the United States are: Individuals employed overseas by the United States Government, an American corporation engaged in the development of foreign trade or commerce, or, an American institution of research (§316(b)); employees of the United States Government employed abroad (§316(c)); merchant seamen on United States flag ships (§330), and; persons who have served in the Armed Forces of the United States (§328 and 329).

It also is clear that one of the classes of persons which the Congress has determined merits special consideration under the immigration and naturalization laws for their service to the United States are persons who have contributed to the national security. This determination is embodied in section 7 of the Central Intelligence Agency Act of 1949, 50 U.S.C. 403h. Section 7 permits the admission of a limited number of persons to permanent resident alien status notwithstanding their inadmissibility under the immigration laws if the DCI, AG, and the Commissioner of INS determine that such admission would be "in the interest of national security or essential to the furtherance of the national intelligence mission."

The Congress also has recognized that there must be some flexibility concerning naturalization of such persons. Accordingly, in subsection (c) of section 316 of the Immigration and Nationality Act, the Congress has seen fit to relax certain residency requirements for the naturalization of persons who are employed by or contractors of the Central Intelligence Agency. In the case of Victor Ivanovich Belenko,

the Soviet Air Force pilot who defected to the West, the Congress saw fit to waive the residency requirements for naturalization as well as the impediments to naturalization imposed by Mr. Belenko's prior membership in the Communist Party and the requirement as to the place of filing his petition. (Private Law 96-62; see Senate Report 96-963).

Given the importance of expedited naturalization for individuals, not citizens of the United States, who are in a position to make significant contributions to the national intelligence mission, this provision will provide the United States with an ability to offer such an inducement to potential foreign intelligence sources abroad. In virtually all these cases at present, such expeditious action is foreclosed by the requirements of Section 316.

The delay which these individuals must face in complying with existing law is often a serious blow to their aspirations of becoming full fledged members of the American community. Current law eliminates an opportunity to stimulate future contributions to our national security by those who might be encouraged to cooperate with us on account of the availability of a smooth and swift transition to United States citizenship.

It is possible to overcome these problems through the enactment of private bills, as in the Belenko case. Obtaining a private bill, however, entails explaining the individual's contribution and why it merits expeditious naturalization. This is often impossible, because in many cases even the slightest publicity would jeopardize the individual's security and could diminish the value of his contribution to the intelligence mission. This is particularly true when the United States is taking affirmative measures to conceal an individual's identity or the nature of his contribution to the intelligence mission.

Proposed subsection (g)(1) establishes a systematic method of recognizing the importance of services rendered to the United States by certain individuals by permitting the Director of Central Intelligence, the Attorney General and Commissioner to waive the residency and physical presence requirements of section 316 in appropriate cases. This waiver will recognize the contributions of these individuals by allowing them to petition immediately for naturalization without having to endure an unnecessary probationary period. The individuals who would benefit from the proposed waiver authority would already have demonstrated their fitness to become citizens and their commitment to the United States.

Proposed subsection (g)(1) is consistent with the existing structure of the naturalization laws, which already permit the waiver of these requirements for other classes of individuals

who have rendered special service to the United States. Further, it builds upon the Congressional recognition, embodied in Section 7 of the Central Intelligence Agency Act of 1949, subsection (c) of Section 316, and the Belenko legislation, that the requirements of the immigration and nationality laws should be flexible in application to persons who make a substantial contribution to the national intelligence mission.

Membership in Prohibited Organizations

Section 313 of the Immigration and Nationality Act, 8 U.S.C. 1424, prohibits the naturalization of individuals who are members of certain prohibited organizations or who espouse certain political ideologies. Its principal thrust is directed against persons who are members of the Communist Party in any of its various manifestations worldwide, in effect barring them from naturalization.

Subsection 313(c), however, provides an exception to this general exclusion. It permits petitioners who otherwise would be barred by Section 313 to petition for naturalization provided that, at the time of petitioning, more than ten years have elapsed since termination of their membership in the prohibited organization. This is, in effect, a ten year probationary period for former members of the Communist Party, during which they must demonstrate that they have shed their attachment to the Party, its principles and goals, and are otherwise fit for citizenship.

Section 313 imposes some special difficulties vis-a-vis the national intelligence mission in that some of the most important contributions to that mission are made by individuals who were members of the Communist Party. Indeed, their ability to contribute to this mission is normally enhanced by their Communist Party membership. Proposed subsection (g)(1) would permit waiver of this ten year bar for persons who have made significant contributions to the national intelligence mission.

As with the residency requirements of Section 316, the probationary period established by Section 313(c) is not needed in the case of these individuals. By their service to the national intelligence mission, they have demonstrated, usually at the risk of their lives, that they have effectively foresworn Communism and are fit candidates for United States citizenship. They need no probationary period to prove that fitness.

Residence Within the Jurisdiction

Section 316(a) of the Immigration and Nationality Act, 8 U.S.C. 1427(a), taken together with other sections of that Act, requires a petitioner to file his petition for naturalization in the court which has jurisdiction over his place of residence. In effect, this means that the petitioner must file in the State in which he spends the last six months of required State residency.

A waiver of the physical presence and residency requirements of Section 316 also necessitates a waiver of this procedural requirement. Petitioners benefiting from a waiver of the physical presence and residency requirements most likely will not have a permanent place of residence at the time of filing their petitions; hence, there will be no court with jurisdiction over the place of residence. Section 328 of the Immigration and Nationality Act is illustrative in this regard. In Section 328 the Congress has seen fit to waive the physical presence and residency requirements on the basis of service in the armed forces, and the requirement for residence within the jurisdiction is waived as well.

A waiver of the Section 316(a) requirement for individuals who have made significant contributions to the national intelligence mission also follows from the circumstances of individuals involved. Not only might they lack established residences, but it may be advisable for the United States, for reasons of security, to have the petition filed at a particular location.

Proceedings under this Subsection

Subsection (g)(2), together with the last sentence of subsection (g)(1), make it clear that a naturalization petition which arises under this section may be filed in any district court. Subsection (g)(2) also mandates that the naturalization proceeding be conducted so as to insure the protection of intelligence sources and methods from unauthorized disclosure.

As noted above, the petitioner in such cases often has not had the opportunity to establish residency in a particular location in the United States. In addition, security concerns and the interests of the government may require that the individual reside in a particular place or not reside in other places. Accordingly, subsection (g)(2) provides that a naturalization petition in such cases can be filed in any district court in the United States, and that such petitions are to be accepted for adjudication by the court in which they are filed.

Information involved in such naturalization proceedings will, by definition, be quite sensitive and revealing of the national intelligence mission. All information necessary to the adjudication of the petition, must, of course, be presented to the court. Yet, at the same time, information concerning intelligence sources and methods must be protected from unauthorized disclosure. No particular procedure is required. It instead is left to the discretion of the court and the

government to insure that appropriate procedures, e.g., sealing of the record, are utilized.

Conclusion

In sum, the proposed amendment is needed to enhance the ability of the United States to collect information from and recruit foreign intelligence sources and is warranted as a recognition of the significant contributions made by certain individuals to the national intelligence mission. It is narrowly drawn, building upon previous legislative enactments in the area of intersection between the national intelligence mission and the immigration and nationality laws.

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